

Before The
Federal Communications Commission
Washington, D.C., 20554

In the Matter of)	
)	
)	MB Docket No. 18-119
Amendment of Part 74 of the Commission's)	
Rules and Regarding FM Translator)	
Interference)	
)	
)	

COMMENTS OF THE NATIONAL TRANSLATOR ASSOCIATION

The National Translator Association (NTA) here by submits timely comments in response to the Notice of Proposed Rulemaking (NPRM) to streamline and establish the rules relating to interference caused by FM translators and to expedite the translator complaint resolution process in general, Notice of Proposed Rulemaking MB 18 – 119 released May 10, 2018.¹ The primary purpose of this proceeding is to implement new practical measures for resolving interference cases into other services from FM translators.

The National Translator Association (NTA) continues to advocate, as it has for the past 40 years, measures that extend and preserve free over the air broadcast television, especially to rural areas where other delivery mechanisms may be lacking. Since the inception of the FM translator service, NTA also has supported that service, as an important component of aural service, assuring the larger and more effective use of radio in the public interest.

Overview

In recent years, FCC Rules and Regulations have been modified to enable AM broadcasters,

¹ FCC Notice of Proposed Rulemaking MB 18 – 119 released May 10, 2018

LPFM broadcasters and FM HD broadcasters to make significant use of the FM translator service. As a result the FM translator service has gained enhanced significance, for the public, to the broadcaster and the public interest.

This rulemaking and the subsequent notice of proposed rulemaking resulted from petitions filed by The National Association of Broadcasters (NAB) and Aztec Capital Partners, Inc., (Aztec) released on April 27, 2017² along with other comments filed by NTA and others. We strongly support many of the comments and concepts contained within the NAB RM – 11787 proposals (NAB RM). We also support some of the concepts contained within the Aztec RM – 11786 proposals (Aztec RM)³. However there are some significant differences between these proposals that should be address and this Notice of Proposed Rulemaking (NPRM, or Notice). NTA also filed comments in support of the rulemaking that is the root this NPRM.⁴

The NPRM⁵, requests comments concerning six general areas, (1) allowing FM translators to resolve interference issues by changing channels to any available frequency using a minor modification application; (2) requiring a minimum number of listener complaints to be submitted with any FM translator interference claim; (3) standardizing the information that must be included within such a listener complaint; (4) streamlining and expediting interference complaint resolution procedures; (5) establishing an outer contour limit for the affected station beyond which listener complaints would not be considered actionable; and (6) modifying the scope of interference complaints permitted to be filed by affected stations at the application stage. NTA will now address these general areas.

² see RM – 11787 NAB Petition for Rule Making – April 27, 2017

³ See RM – 11786 Aztec Capital Partners, Inc., licensee of WHAT(AM), Philadelphia, Pennsylvania

⁴ ID 2

⁵ ID 1

Allowing FM Translators to Resolve Interference Issues by Changing Channels to Any Available Frequency Using a Minor Modification Application

The Commission proposes modifications to section 74.1233 (a) (1) of the rules, which restricts “minor” change only to adjacent and certain other channels with appropriate band. In the NPRM, the Commission proposes “to define an FM translators change to any available FM channel as a minor change, upon a showing of interference to and from any other broadcast station.”⁶

NTA agrees with allowing such applications to be considered minor change applications. NTA supports a technical showing the show that adjacent channels are not adequately available or beneficial to the applicant or other broadcast entities as a cause to use other channels. NTA also agrees that such general changes should only occur within the band that which the original translator exist for commercial entities and thus no such reasonable spectrum is available. Noncommercial entities should be allowed to relocate a translator to either the reserve or the non-reserved band (Band Hopping) as the applicant sees fit.

Requiring a Minimum Number of Listener Complaints to Be Submitted With Any FM Translator Interference Claim

The Commission proposes that a minimum number of “bona fide listeners” should be required to meet a certain threshold to establish any claim of interference (Bona Fide Listener Threshold).⁷ NAB suggested six [bona fide] listener complaints as a reasonable starting

⁶ ID 1 at page 6

⁷ ID 1 at page 8

point.⁸ NTA agrees with this number, however, NTA thinks is this number should ultimately be based on the population that the translators covers within its protected contour as we stated in our filing in support of this rulemaking.⁹ For example, we would propose that if the translators protected contour contained up to a potential 100,000 listeners that the six Bona Fide Listener Threshold should initially be established. As the number of potential listeners increases within the translators protected contour, the Bona Fide Listener Threshold should also increase by one for every additional hundred thousand listeners increase. In this way, the population count under the protected contour would tend to fairly represent the listenership within that protected contour of the translator. This methodology would also keep the calculations relatively simple.

We submit that, logically, that all secondary services including Boosters and Low Power FM Stations (LPFM) should be treated in this matter with respects to interference. However, boosters in most cases are located within the protected contour of the primary full power station and should not trigger this kind of interference complaint in this particular case. The Full Power station and the Booster may produce mutual interference between each other this is not the same interference is the subject of this Notice.

We would propose to limit the number of Bona Fide Listeners from a single location and would propose that they be separated by at least 1000 feet and not in a common property complex such as an apartment building.

We also think that the number of Bona Fide Listener should be from a varying geographical area in which we further describe later in this document.

⁸ NAB Petition at 9-10.

⁹ ID 2

Standardizing the Information That Must Be Included Within Such a Listener Complaint

The Commission proposes to codify Section 74.1203(a)(3) and 74.1204(f) listener complaint requirements, as initially established in *Community Education* and subsequent cases. NAB suggests that in addition to name and contact information, listener complaints be required to contain “clear evidence, such as a signed declaration” that the individual is a regular listener and unaffiliated with the station. NAB urges that listener complaints also include an “address or accurate description of the individual’s location where he or she is prevented from listening to the full-power station.”¹⁰ In this respect, NAB states that it would be useful for the Commission to clarify that a listener is still considered “unaffiliated” even if his or her complaint was solicited by the station and/or presented in a standardized format, such as a form letter or list. NAB also suggests that the Commission should clarify whether signal strength is a factor in determining whether a listener is “regular,” as a recent unpublished staff letter would seem to suggest.¹¹

The Commission proposes to loosen these restrictions. NTA would not support this and would propose continuing with the standard stated in the preceding paragraph. The Commission along with NAB stated “that verifying listener information remains contentious and time consuming.”¹² NTA would disagree and feels that such information is useful in determining interference and is needed in order to resolve possible interference complaints. NTA would further state that other changes proposed within this document in their aggregate would tend to minimize the need to refer back to Bona Fide Listener information because for example, a

¹⁰ NAB Petition at 10.

¹¹ See *Katherine Pyeatt*, Letter, Ref. No. 1800B3-RG, File No. BPFT-20100510ABW (MB Dec. 23, 2010) at 2 (rejecting a Section 74.1204(f) claim because “it is highly unlikely that anyone would be able to listen to this station with such a low signal strength [17 dBμ].”).

¹² See, e.g., *Community Education*, 19 FCC Rcd at 12687, para. 13; *LPFM Sixth Order*, 27 FCC Rcd at 30, para. 83.

translator licensee may elect to their frequency rather than vet the Bona Fide Listener information. We also agree with NAB's assertion that Bona Fide Listeners need to identify themselves as not being affiliated with the full power station in any way. We would also urge the Commission to prohibit solicitation campaigns by the full power station for interference complaints. We think that it would be reasonable for the Commission ban any on-air announcement intended to harvest complaints. In our view, listeners genuinely affected by destructive interference will contact the station *sua sponte*, with being zealously prodded.

Some commenters in the rulemaking suggested that signal strength of the proposed full power station should be considered. NTA supports this as well. Any complaint from a listener outside the Protected Contour of Interference as defined below should be automatically considered not to be a valid complaint. We expand upon this concept later in this document.

The full power station should be required to demonstrate that they are operating within their minimum licensed parameters when such complaints are occurring. Any findings of non-conforming operations, whether by STA to reduce power or by undisclosed departure from the licensed parameters, should nullify any complaint

The Commission stated "a station licensee filing an interference complaint or other request for relief is considered a party to the proceeding and entitled to protection under the ex parte rules."¹³ Most Bona Fide Listener(s) would not likely understand the technical detail involved. Therefore, NTA believes that a Bona Fide Listener(s) should not be considered a party to a complaint.

¹³ 47 CFR § 1.1202(d)(1), 47 CFR § 1.1202(d)(2).
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The Commission goes on to further state, “We also propose to eliminate the current requirement that the complaining listener cooperate with remediation efforts. For example, a listener would not be required to accept equipment or equipment modifications (e.g., a new receiver) as a way of addressing interference. Instead, we seek comment on removing the listener from the complaint resolution process by requiring the translator operator, once interference has been initially established through listener complaints, to submit a technical showing that all interference has been eliminated. We propose to require this technical showing to be based on the same U/D ratio methodology applicable to Section 74.1204(f) complaints, using the standard contour prediction methodology specified in Section 73.313, in addition to on/off tests if appropriate and directed by Commission staff. A translator licensee could use these U/D showings to demonstrate the parameters with which it could operate on its current frequency and not cause interference.”¹⁴

NTA disagree with the Commission proposal to eliminate the requirements that the complaining listener cooperate with remedial efforts as stated in the preceding paragraph. We would propose an either or situation whereas that the Commission allow such remedial modifications. This would effectively remove this Bona Fide Listener from the complaint list and streamline the resolution of the interference process at significantly less cost. Otherwise, the translator licensee could proceed with a U/D methodology study as described in the NPRM. We also believe that the translator licensee should be allowed to conduct off - on test as part of the remedial process but that meaningful measurements should be taken and the test should not be purely subjective. Here, we would propose that meaningful measurements mean signal-to-noise ratios on the decoded output of the receiver in some form.

¹⁴ ID 1 at page 11
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With respect to deadlines and timetables for resolving interference, we would support that a translator licensee respond to a complaint from the Commission within 48 hours of notice concerning such interference. If the response was such that further investigation was needed, during this period, the Commission should allow the translator licensee to operate at 50% normal license power until the interference is resolved or it's determined that the interference is not capable of being resolved and the translator licensee exhausted all other means of resolution in which case the translator licensee would cease operations. The translator licensee in our opinion should be allowed 60 days to resolve such interference or present an alternative to resolving such interference such as a frequency change of the translator. After 60 days the translator licensee should respond to a show cause order from FCC staff after which an extension could be granted for good cause at the discretion of the FCC staff.

Limits on Actual Interference Complaints

The Commission is seeking comments on identifying signal strengths beyond which an FM station may not claim interference to its listeners from an FM translator. Aztec claims that Sections 74.1203(a)(3) and 74.1204(f) of the Rules encourage full service station licensees to “troll for complaining individuals” so that they can extend their signal out to the “last gasp of his or her radio signal coming through the FM hash.”¹⁵ Aztec argues that these types of interference claims threaten FM translators that are rebroadcasting AM stations and HD Radio multicast channels, and constitute a “perversion” of the Commission’s intention when it adopted these rules, i.e., to protect local full service stations from encroachment by out-of-

¹⁵ Aztec Petition at 9.
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market translators.¹⁶ The Commission in the NPRM proposed “to identify a predicted signal contour within which most of a station’s listeners are located and to not require the elimination of interference beyond that contour. This approach is based on the common language of Sections 74.1203(a)(3) and 74.1204(f), which prohibit interference to a “regularly used” broadcast signal, and Section 74.1203(a)(3), which prohibits interference with another station’s “reception by the public.” [The Commission] believe that we can restrict stations from making specious interference allegations while preserving translators’ status as a secondary service.”¹⁷ The Commission went on to propose a 54 dBu contour for this purpose.

NTA agrees that signal strength needs to be a determining factor in the validity of determining a Bona Fide Listener in regards to interference from a translator. In reality, no broadcaster should expect to receive protection outside their protected contour for the situation at hand. We feel that the contour for this purpose should be selected 6 dB beyond the protected contour of service for the full station in question taking into consideration the zone in which the station is located. We also feel that this contour should apply to all secondary service stations including but not limited to all translators regardless of class of service (the “Protected Contour of Interference”). We would further go on to state that the appropriate desired-to-undesired ratio be used within this contour to determine what we call a “Potential Area of Interference” or as we stated in previous documents “The Area of the Zone of Interference”. For example, if the translator is located directly to the south of the transmitter

¹⁶ Aztec Petition at 2-3. Aztec urges that the Commission be mindful of its mandate to provide a “fair, efficient, and equitable distribution” of radio services under Section 307(b) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 307(b) as well as Section 5 of LCRA, *Local Community Radio Act of 2010*, Pub. L. No. 111-371, 124 Stat. 4072 (2011), Sec. 5 (“The Federal Communications Commission, when licensing new FM translator stations, FM booster stations, and low-power FM stations [LPFM], shall ensure that—(1) licenses are available to FM translator stations, FM booster stations, and low-power FM stations; (2) such decisions are made based on the needs of the local community; and (3) FM translator stations, FM booster stations, and low-power FM stations remain equal in status and secondary to existing and modified full-service FM stations.”).

¹⁷ 1970 *Translator Order*, 20 RR 2d 1538, para. 3; 1990 *Translator Order*, 5 FCC Rcd at 7230, para. 130.

for the full power station in question, a listener could not become a Bona Fide Listener if they were directly north of the transmitter of the full power station even if he were located inside the Protected Contour of Interference. There is obviously no way that the translator could be causing interference in this situation. This is the reason why we need to calculate the Potential Area of Interference.

As we propose, the calculation of the Potential Area of Interference for co-channel situation would be the area up to 6 dB beyond the protected contour of service for the full power station in question known as the Protected Contour of Interference then using a 20 dB ratio for desired to undesired signal. Calculations for the first adjacent channel situation would be the area up to 6 dB beyond the protected contour of service for the full power station in question again known as the Protected Contour of Interference then using a 6 dB ratio for desired to undesired signal. These proposed numbers agree with the methodology that the FCC has generally used for the calculation of the F curves, policies and other factors in the past as originally discussed by Mitre and others. We would also propose the allowed use of Longley Rice calculations and other such propagation models and methodologies which tend to be more accurate for the calculation of the Potential Area of Interference but would recommend that the Protected Contour of Interference be derived from calculating 6 dB beyond the protected theoretical contour of the full power station based on the F (50:50).

Non-substantive Updates

The Commission in the NPRM stated, under the rules, FM translators must not cause either predicted or actual interference to any other broadcast station, which includes previously

authorized secondary services.¹⁸ However, the text of Section 74.1204(f) states that the rule applies to any authorized co-channel or adjacent station, “including Class D (secondary) noncommercial educational FM stations.” This language is potentially confusing, because it specifies Class D stations but does not mention any other secondary services. Similarly, the text of Section 73.1203(a)(3) states that the rule applies to “any authorized broadcast station,” including “TV Channel 6 stations, Class D (secondary) noncommercial educational FM stations, and previously authorized and operating FM translators and FM booster stations.”

We agree with the Commission statement that this text is confusing and should be modified. We also find the use of “predicted or actual interference” to be confusing and the light of this NPRM and all future references to interference should refer to the future Report and Order to be released in conjunction with this NPRM.

Conclusion

NTA generally agrees with NAB’s and others comments supporting the commencement of this rule making. However, we would support a different method in determining the number of bona fide complaints needed to be filed against a translator suspected of causing interference to a full power station after being licensed. NTA would recommend that the number of complaints be variable depending on the total number of potential listeners (population) under the protected contour of the translator. We also agree that the location of the listener’s complaints would need to be from unique locations as NAB states. We would also suggest that these complaints from these listeners would need to come from what we would define as the Potential Area of Interference which could be determined from interference contours

¹⁸ See 47 CFR §§ 74.1203(a)–(d); 74.1204(f).
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derived from the full power station. We would also state that both the full power station and the translator would need to be operating under normal parameters in accordance with their granted licenses at the time of the Bona Fide Listener complaints.

NTA believes that FM translators allow broadcasters to maintain and aid with financial viability of their full power stations. It is in the public interest for the Commission to proceed in moving forward with this proposed rule makings as these new rules would govern interference issues reported by listener complaints. These new proposed rules would better serve the public, the broadcast industry, full power broadcast stations, and FM translators enabling all to better serve the local community and the public interest. If this proposal enhances the delivery of local radio service to the public, it warrants prompt implementation by that fact alone.

FOR THE NATIONAL TRANSLATOR ASSOCIATION:

/s/ Charles (Ched) Keiler

Charles (Ched) Keiler, Vice President - Audio

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